

NEBRASKA DEPARTMENT
OF INSURANCE

MAY 23 2003

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	CAUSE NO.: A-1496
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
vs.)	ORDER
)	
KIRT ELLIOTT,)	
)	
RESPONDENT.)	

This matter came on for hearing on the 14th day of May, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Martin Swanson. Kirt Elliott, ("Respondent"), was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was a resident licensed insurance producer at all times material hereto, whose registered address with the Department is 501 South 38th Street, Omaha, Nebraska 68103-0721. (Exhibits 5-9).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers and brokers.
3. The Petition and Notice of Hearing were filed on or about April 10, 2003, and were served upon the Respondent by mailing the same to his address of record by

certified mail, return receipt requested. On or about May 5, 2003, the certified letter was returned to the Department as "unclaimed." Prior to receiving the "unclaimed" letter, the Department re-served Respondent on April 24, 2003. Respondent received the Petition and Notice of Hearing on or about April 26, 2003 as evidenced by the return receipt card attached to Exhibit 4 which was received by the Department on April 28, 2003.

4. The Department had received a complaint from Sterling and Myrna Hespen. On January 13, 2003, an Insurance Investigator in the Consumer Affairs Division, Barbara Ems, sent a certified letter to Respondent requesting he provide certain information to the Department regarding the Hespens' complaint within fifteen working days. The Department did not receive a response from Respondent, as evidenced by Exhibit 1.

5. On or about February 11, 2003, Jane Francis, the Administrator of the Consumer Affairs Division, sent a certified letter to Respondent requesting a response to the Department's January 13, 2003 letter and reminded Respondent that he had fifteen working days to respond to the inquiry. The Department did not receive a response from Respondent, as evidenced by Exhibit 2.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat.* §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

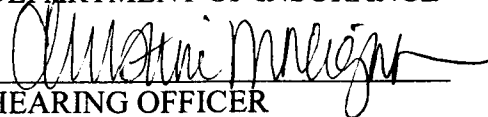
3. Respondent violated *Neb. Rev. Stat.* §44-1525(11) by failing to respond to the Department on two occasions.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent pay an administrative fine of \$250.00 for each violation for a total of \$500.00 within thirty (30) days after the date the Director of Insurance signs this Order. In addition, Respondent's insurance agent license shall be suspended immediately beginning the date the Director of Insurance signs this Order and continuing until Respondent provides a full and complete written response to the Department's letter of January 13, 2003 and complies with the Order issued in Cause No.: A-1494.

Dated this 22nd day of May, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


HEARING OFFICER


CERTIFICATE OF ADOPTION

I have reviewed the Foregoing Findings of Fact, Conclusions of Law and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of the Department in the matter of the State of Nebraska

Department of Insurance v. Kirt Elliott, Cause No.: A-1496.

Dated this 23rd day of May, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon Respondent by mailing a copy to Respondent at 501 South 38th Street, Omaha, NE 68103-0721 on this 23rd day of May, 2003, by certified mail, return receipt requested.

Tracy A. Guehn